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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,470	12/12/2003	David Christensen	DAC-126A	9596

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Kenneth P. Glynn, Esq.
Glynn & Associates, P.C.
24 Mine Street
Flemington, NJ 08822

EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/734,470

Applicant(s)

CHRISTENSEN, DAVID

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-13 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 4 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/12/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because of undue length. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 7, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kindig et al (US 6,019,238; hereinafter Kindig).

Claim 1: Kindig discloses a box **20** comprising left and right pivot assemblies **23**; a base component **21** having a bottom (Col. 3, lines 4-6), a left and right side **24**, pivot

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assembly areas **36**, and a back **25** forming an open front and top; a top component **22** having a top **30**, a back **31**, a front **29**, left and right sides **28**, and pivot assembly areas **40**, wherein the width of top **22** is greater than the width of bottom **21**. Kindig is fully capable of use as claimed.

Claim 5: As applicant does not use the "means for" phraseology, the provisions of 112, 6th paragraph have not been invoked (see MPEP 2181(I)). Kindig discloses pins **36** as separate.

Claim 7: Kindig discloses the claimed taper.

Claim 9: A bottom panel would inherently have a front edge, which would be considered a lip and nest as claimed.

Claim 10: The figures of Kindig appear to disclose the claimed size relationship.

3. Claims 1, 5-9, 11, and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Long et al (US 4,598,824; hereinafter Long).

Claims 1 and 11: Long discloses a box **12** comprising left and right pivot assemblies **18**; latch assembly **100**; a base component **14** having a bottom **40**, a left and right side **20/22**, pivot assembly areas **56**, and a back **54** forming an open front and top; a top component **16** having a top **80**, a back **88**, a front **82**, left and right sides **90/92**, and pivot assembly areas **98**, wherein the width of top **16** is greater than the width of bottom **14**. Long is fully capable of use as claimed.

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Claims 5, 6, 15, and 16: As applicant does not use the "means for" phraseology, the provisions of 112, 6th paragraph have not been invoked (see MPEP 2181(I)). Long discloses separate bolts/pins/shafts **63**.

Claims 7 and 17: Long discloses an inwardly tapered front edge (see Figure 4).

Claims 8 and 18: Long discloses an inverted "L" shape (see Figure 10).

Claims 9 and 19: Long discloses front lip **34**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long.

Long, as applied to claims 1 and 11 above, discloses the claimed invention except for the claimed height proportion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the walls of Long in the claimed proportion in order to reduce the weight of the closure. A change in proportion is generally recognized as being within the level of ordinary skill in the art. *In re Reese*, 129 USPQ 402.

5. Claims 11, 15, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kindig in view of Lance et al (US 6,375,054; hereinafter Lance).

Claim 11: Kindig discloses a box **20** comprising left and right pivot assemblies **23**; a base component **21** having a bottom (Col. 3, lines 4-6), a left and right side **24**, pivot assembly areas **36**, and a back **25** forming an open front and top; a top component **22** having a top **30**, a back **31**, a front **29**, left and right sides **28**, and pivot assembly areas **40**, wherein the width of top **22** is greater than the width of bottom **21**. Kindig is fully capable of use as claimed. Kindig merely lacks the latch assembly.

Lance teaches a latch assembly **130** (see Figure 13) for maintaining the enclosure in a closed position and for said purpose, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the box of Kindig with a latch assembly.

Claim 15: As applicant does not use the "means for" phraseology, the provisions of 112, 6th paragraph have not been invoked (see MPEP 2181(I)). Kindig discloses shafts **36** as separate.

Claim 17: Kindig discloses the claimed taper.

Claim 19: A bottom panel would inherently have a front edge, which would be considered a lip and nest as claimed.

Claim 20: The figures of Kindig appear to disclose the claimed size relationship.

6. Claims 2, 3, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Kindig as applied to claim 1 above, or Kindig-Lance as applied to claim 11 above, and further in view of Williams, Jr. (US 5,228,584; hereinafter Williams).

Kindig/Kindig-Lance disclose the claimed invention except for the weather sealing flanges.

Williams teaches flanges **28 & 40** for creating a weather seal to protect the retained components and for said purpose, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of either Kindig or Kindig-Lance with the claimed weather seals.

Allowable Subject Matter

7. Claims 4 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Greg Pickett
Examiner
5 April 2007